

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 493 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? No
2. To be referred to the Reporter or not?
No

- @ J
3. Whether Their Lordships wish to see the fair copy
of the judgement? No
 4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
No
 5. Whether it is to be circulated to the Civil Judge?
No

DILIP KANUBHAI DARJI

Versus

STATE OF GUJARAT

Appearance:

MR NIGAM R SHUKLA for Petitioner
Mr. K.P. Rawal, APP, for Respondent No. 1

CORAM : MR.JUSTICE M.H.KADRI

Date of decision: 29/04/98

ORAL JUDGEMENT

The applicant has approached this Court, by way of filing this Criminal Misc. Application, under Section 482 of the Code of Criminal Procedure ('Code' for short), for quashing the complaint, bearing C.R.No.I-361 of 1997, filed by respondent No.2 (original complainant), in Ghatlodia Police Station for the offences punishable under Sections 363 and 366 of the Indian Penal Code.

The complainant, who is the father of the kidnapped girl, Shivkumari, lodged complaint on September 2, 1997, before the Ghatlodia Police Station, against the petitioner alleging that he had kidnapped his minor daughter, Shivkumari, with intent that she may be compelled to marry the applicant against her will, from the lawful guardianship of the complainant. The said complaint came to be registered at Ghatlodia Police Station as C.R. No.I-361 of 1997.

The complainant, who is respondent No.2 in this application, had also filed Special Criminal Application No.1506 of 1997 in this Court for a Writ of Habeas Corpus, directing the applicant to produce the minor girl Shivkumari. In that Special Criminal Application, the Division Bench of this Court (Coram: B.C. Patel & C.K. Buch, JJ.) directed that the girl, Shivkumari, be sent to the Civil Surgeon, for medical examination to ascertain her age. Accordingly, girl, Shivkumari, was sent to Civil Surgeon, Sola Civil Hospital, wherein, on medical examination, it was found that girl, Shivkumari, is above 20 years of age. The investigating agency, after investigation, had prepared final report bearing No.09/98, dated April 17, 1998, to the effect that, as the girl is major, no offences under Sections 363 and 366 are made out. The Investigating Agency has also prayed for "C" summary. It is stated by the learned advocate for the applicant that the applicant and girl, Shivpuri, are married and they are living happily.

As no offences alleged in the complaint are made out, the complaint, bearing C.R.No.I-361 of 1997, filed by respondent No.2 (original complainant), in Ghatlodia Police Station for the offences punishable under Section 363 and 366 of the Indian Penal Code, is required to be quashed.

In the result, this application is allowed. The complaint, bearing C.R.No.I-361 of 1997, filed by

respondent No.2 (original complainant), in Ghatlodia Police Station for the offences punishable under Section 363 and 366 of the Indian Penal Code, is quashed. Rule is made absolute.

(swamy)